

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT SMALLS INC. and
ROBERT SMALLS,

Plaintiffs,

-against-

ROSALYN HAMILTON and
HERMAN B. HAMILTON,

Defendants.

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DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the July 19, 2010 Report and Recommendation of United States Magistrate Judge James L. Cott (the "Report") to decide pro se Defendants' Amended Motion for Summary Judgment and Motion to Dismiss. (Docket No. 22.) Judge Cott's Report recommends that Defendants' Motion to Dismiss be denied with respect to venue. (Report at 22.) Judge Cott's Report also recommends that Defendants' Motion to Dismiss be granted as to Count II (Fraudulent Conveyance) and denied as to Counts I, III, IV, and V. (Report at 22.) Finally, Judge Cott's Report recommends that Defendants' Motion for Summary Judgment be denied without prejudice to its being renewed at a later time. (Report at 22.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and

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recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review..." Small, 892 F.2d at 16. Despite being advised of the procedure for filing objections in Judge Cott's Report, and warned that failure to file objections would waive objections and preclude appellate review (Report at 22-23), Defendants have filed no objections to the Report.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge James L. Cott, dated July 19, 2010, be and the same hereby is APPROVED, ADOPTED, and RATIFIED

by the Court in its entirety. The Clerk is DIRECTED to terminate all pending motions. (See Docket Nos. 22, 31.)

The case is still referred to Judge Cott for general pretrial and for a report and recommendation on all further dispositive motions, if necessary. (See Docket Nos. 7, 33.)

SO ORDERED.

Dated: New York, New York

August 11, 2010

A handwritten signature in cursive script, reading "Deborah A. Batts", is written over a horizontal line.

Deborah A. Batts
United States District Judge